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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

SPOKANE RIVERKEEPER,)	
)	
Plaintiff,)	
v.)	COMPLAINT
)	
TOWN OF SPANGLE,)	
)	
Defendant.)	
)	
)	

I. INTRODUCTION

1. This action is a citizen suit brought under Section 505 of the Clean Water Act (“CWA”) as amended, 33 U.S.C. § 1365. Plaintiff Spokane Riverkeeper seeks a declaratory judgment, injunctive relief, the imposition of civil penalties, and the award of costs, including attorneys’ and expert witnesses’ fees, for Defendant the Town of Spangle’s (“Spangle”) repeated and ongoing violations of Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, and the terms and conditions of its National Pollutant Discharge Elimination System (“NPDES”) Waste Discharge Permit authorizing discharges of pollutants from Spangle’s facility to navigable waters.

II. JURISDICTION AND VENUE

2. The Court has subject matter jurisdiction over Spokane Riverkeeper's claims under Section 505(a) of the CWA, 33 U.S.C. § 1365(a). The relief requested herein is authorized by Sections 309(d) and 505(a) and (d) of the CWA, 33 U.S.C. §§ 1319(d) and 1365(a) and (d).

3. Under Section 505(b)(1)(A) of the CWA, 33 U.S.C. § 1365(b)(1)(A), Spokane Riverkeeper notified Spangle of its violations of the CWA and of Spokane Riverkeeper's intent to sue under the CWA by letter dated and postmarked June 30, 2021 and delivered July 6, 2021 ("Notice Letter"). A copy of the Notice Letter is attached to this Complaint as Exhibit 1. The allegations in the Notice Letter are incorporated herein by this reference. In accordance with section 505(b)(1)(A) of the CWA, 33 U.S.C. § 1365(b)(1)(A) and 40 C.F.R. § 135.2(a)(1), Spokane Riverkeeper notified the Administrator of the United States Environmental Protection Agency ("EPA"), the Administrator of EPA Region 10, and the Director of the Washington Department of Ecology ("Ecology") of its intent to sue Spangle by mailing copies of the Notice Letter to these officials on June 30, 2021.

4. At the time of filing this Complaint, more than sixty days have passed since the Notice Letter and copies thereof were issued in the manner described in the preceding paragraph.

5. The violations complained of in the Notice Letter are continuing and/or are reasonably likely to recur.

6. At the time of the filing of this Complaint, neither the EPA nor the Ecology has commenced any action constituting diligent prosecution to redress the violations alleged in the Notice Letter.

7. The source of the violations complained of is located in Spokane County, Washington, within the Eastern District of Washington, and venue is therefore appropriate in the

1 Eastern District of Washington pursuant to Section 505(c)(1) of the CWA, 33 U.S.C. §
2 1365(c)(1), and 28 U.S.C. § 1391(b).

3 III. PARTIES

4 8. Spokane Riverkeeper is suing on behalf of itself and its members.

5 9. Spokane Riverkeeper is a non-profit corporation organized under the laws of the
6 State of Washington. Spokane Riverkeeper is dedicated to protecting and preserving the
7 environment of Washington State, especially the quality of its waters. Spokane Riverkeeper is a
8 membership organization and has at least one member who is injured by Spangle's violations.

9 10. Spokane Riverkeeper has representational standing to bring this action. Spokane
10 Riverkeeper's members are reasonably concerned about the effects of discharges of pollutants,
11 including wastewater from Spangle's facility, on water quality and aquatic species and wildlife
12 that Spokane Riverkeeper's members observe, study, and enjoy. Spokane Riverkeeper's
13 members are further concerned about the effect of discharges from Spangle's facility on human
14 health. In addition, discharges from Spangle's facility lessen Spokane Riverkeeper's members'
15 aesthetic enjoyment of nearby areas. Spokane Riverkeeper's members' who live, work, fish, and
16 recreate around or use the Spokane River, Latah Creek (also known as Hangman Creek), Spangle
17 Creek, and other waters affected by Spangle's discharges. Spokane Riverkeeper's members'
18 concerns about the effects of Spangle's discharges are aggravated by Spangle's failure to record
19 and report information about its discharges, violations, and pollution controls. The recreational,
20 economic, aesthetic and/or health interests of Spokane Riverkeeper and its members have been,
21 are being, and will be adversely affected by Spangle's violations of the CWA. The relief sought
22 in this lawsuit can redress the injuries to these interests.

1 11. Spokane Riverkeeper has organizational standing to bring this action. Spokane
2 Riverkeeper has been actively engaged in a variety of educational and advocacy efforts to
3 improve water quality and to address sources of water quality degradation in the waters of
4 Eastern Washington, including Spangle Creek, Latah Creek, and the Spokane River. As detailed
5 herein and in the Notice Letter, Spangle has failed to comply with numerous requirements of its
6 NPDES Permit including effluent limits, sampling and monitoring, reporting and record keeping,
7 loading limits, operation and maintenance, pretreatment enforcement, compliance schedules, and
8 reduced production for compliance. As a result, Spokane Riverkeeper is deprived of information
9 necessary to properly serve its members by providing information and taking appropriate action
10 to advance its mission. Spokane Riverkeeper's efforts to educate and advocate for greater
11 environmental protection and to ensure the success of environmental restoration projects
12 implemented for the benefit of its members are also obstructed. Finally, Spokane Riverkeeper
13 and the public are deprived of information that influences members of the public to become
14 members of Spokane Riverkeeper, thereby reducing Spokane Riverkeeper's membership
15 numbers. Thus, Spokane Riverkeeper's organizational interests have been adversely affected by
16 Spangle's violations. These injuries are fairly traceable to Spangle's violations and are
17 redressable by the Court.

18 12. Spangle is a town in Spokane County that owns and operates wastewater
19 treatment plant authorized to conduct operations and discharge pollutants in the State of
20 Washington.

21 13. Spangle's wastewater treatment plant is located at or about 47.4341°N,
22 117.3845°W (the "facility").
23

IV. LEGAL BACKGROUND

14. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person, unless in compliance with the provisions of the CWA. A discharge of a pollutant from a point source to waters of the United States without authorization by an NPDES permit, issued under Section 402 of the CWA, 33 U.S.C. § 1342, constitutes a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), and an “effluent standard or limitation” under Section 505(a)(1) and (f) of the CWA, 33 U.S.C. § 1365(a)(1) and (f). Conditions of NPDES permits are effluent standards or limitations under Section 505(a)(1) and (f) of the CWA, 33 U.S.C. § 1365(a)(1) and (f). Section 505(a)(1) of the CWA, 33 U.S.C. § 1365(a)(1), authorizes citizen suits against violators of effluent standards or limitations.

15. The State of Washington has established a federally approved state NPDES program administered by Ecology. Wash. Rev. Code § 90.48.260; Wash. Admin. Code ch. 173-220. This program was approved by the Administrator of the EPA pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b).

16. Under Section 402(a) of the CWA, 33 U.S.C. § 1342, Ecology has issued Spangle the Waste Discharge Permit NPDES number WA099101 (the “Permit”), on December 7, 2016, which became effective on January 1, 2017, and expires on December 31, 2021. The Permit authorizes Spangle to discharge wastewater to waters of the state, subject to certain terms and conditions.

17. The Permit imposes certain terms and conditions on those covered thereby, including numeric effluent limitations, monitoring and sampling of discharges, and reporting and recordkeeping requirements. The Permit requires, among other things, that Spangle properly operate and maintain all systems of treatment and control at all times.

V. FACTS

18. Ecology granted Spangle coverage for the facility under the NPDES Waste Discharge Permit number WA099101.

19. Spangle discharges wastewater and pollutants to Spangle Creek which then flows to Latah Creek and then to the Spokane River.

20. Spangle owns and operates a Biolac wastewater treatment plant that collects and treats wastewater from the town. Spangle discharges treated wastewater through an eight-inch PVC discharge pipe that terminates on the eastern bank of Spangle Creek.

21. Spangle has violated and continues to violate effluent standards or limitations, as defined by Section 505(f) of the CWA, 33 U.S.C. § 1365(f), and Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, by discharging pollutants in violations of its NDPEs Permit. Spangle's violations of the Permit are set forth in sections I through VIII of the Notice Letter attached hereto as Exhibit 1 and are incorporated herein by this reference.¹ In particular, and among the other violations described in the Notice letter, Spangle has violated the Permit by discharging wastewater containing levels of pollutants greater than the effluent limits established in the Permit, failing to meet sampling and monitoring requirements, failing to meet reporting and record keeping requirements, exceeding facility loading limits established by the Permit, failing to comply with operation and maintenance requirements, failing to comply with pretreatment requirements, failing to meet compliance schedule requirements, and violating the Permit for reduced production for compliance.

22. Spangle discharges wastewater from its facility containing levels of pollutants that exceed the effluent limit established by the Permit, including the days on which Spangle

¹ Allegations made in sections II.A.iii-v, II.A.vii, II.A.x-xviii, and V.C, are not alleged to be ongoing in this complaint.

collected samples with the results identified in this paragraph below, and is likely to continue discharging comparably unacceptable wastewater effluent:

<u>Month of Violation</u>	<u>Reported BOD₅ Value (Effluent limit 10 mg/L)</u>
July 2019	14.4
June 2020	11.4

<u>Week of Violation</u>	<u>Reported BOD₅ Value (Effluent limit 15 mg/L)</u>
July 21, 2019	24.5
May 31, 2020	15.7
May 30, 2021	15.3

<u>Month of Violation</u>	<u>Reported BOD₅ Value (Effluent limit ≥85%)</u>
June 2020	83.6

<u>Month of Violation</u>	<u>Reported BOD₅ Value (Effluent limit 5.7 lbs/day)</u>
February 2017	8.5

<u>Week of Violation</u>	<u>Reported BOD₅ Value (Effluent limit 8.5 lbs/day)</u>
February 2017 ¹	13

<u>Month of Violation</u>	<u>Reported TSS Value (Effluent limit 15 mg/L)</u>
July 2019	29.5
October 2020	25
November 2020	21.25
February 2021	36
June 2021	27.5

¹ Exact week is known to Spangle.
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<u>Week of Violation</u>	<u>Reported TSS Value (Effluent limit 23 mg/L)</u>
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July 21, 2019	54
October 4, 2020	32
February 14, 2021	70
May 30, 2021	54.0

<u>Month of Violation</u>	<u>Reported TSS Value (Effluent limit $\geq 85\%$)</u>
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October 2020	79.5
November 2020	80.7
February 2021	20.9
March 2021	81.5
June 2021	35.3

<u>Month of Violation</u>	<u>Reported Ammonia Value (Effluent limit 1 mg/L)</u>
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October 2020	1.75
May 2021	2
June 2021	8

<u>Date of Violation</u>	<u>Reported Ammonia Value (Effluent limit 1.5 mg/L)</u>
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July 25, 2019	2.2
October 8, 2020	2.1
March 4, 2021	2.3
May 6, 2021	1.9
May 20, 2021	1.7
June 3, 2021	13.7
June 17, 2021	2.4

<u>Month of Violation</u>	<u>Reported Fecal Coliform Value (Effluent limit 100 Colony Forming Units per 100 mL)</u>
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July 2017	324.037
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<u>Week of Violation</u>	<u>Reported Fecal Coliform Value (Effluent limit 200 Colony Forming Units per 100 mL)</u>
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July 2, 2017	350
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May 30, 2021	920
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<u>Date of Violation</u>	<u>Reported Temperature Value (Effluent limit 7-DADMax temperature at 18.2°C for July, 21.5°C for August, and 17.7°C for September)</u>
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July 1, 2017	21.3
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July 2, 2017	21.3
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July 3, 2017	21.4
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July 4, 2017	21.4
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July 5, 2017	21.4
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July 6, 2017	21.4
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July 7, 2017	21.7
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July 8, 2017	21.7
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July 10, 2017	21.9
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July 11, 2017	22.2
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July 12, 2017	22.2
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July 13, 2017	22.2
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July 14, 2017	21.8
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July 17, 2017	21
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July 18, 2017	20.8
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July 19, 2017	20.8
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July 20, 2017	20.8
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July 21, 2017	20.8
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July 24, 2017	21.3
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COMPLAINT - 9

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1	July 25, 2017	21.5
2	July 26, 2017	21.5
3	July 27, 2017	21.5
4	July 28, 2017	21.6
	July 31, 2017	21.9
5	August 1, 2017	21.6
6	September 1, 2017	20.7
7	September 2, 2017	20.5
8	September 3, 2017	20.3
	September 4, 2017	20.1
9	September 5, 2017	20.1
10	September 6, 2017	20.1
11	September 7, 2017	20.1
12	September 8, 2017	20.1
	September 9, 2017	20
13	September 10, 2017	19.8
14	September 11, 2017	19.5
15	September 12, 2017	19.3
16	September 13, 2017	19.3
	September 14, 2017	19.3
17	September 15, 2017	18.3
18	September 29, 2017	17.8
19	September 30, 2017	18.5
20	September 1, 2018	18.4
	September 2, 2018	18.4
21	September 3, 2018	18.4
22	September 4, 2018	18.4
23	September 5, 2018	18.4

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1	September 6, 2018	18.4
2	September 7, 2018	18.5
3	September 8, 2018	18.3
4	September 9, 2018	18.2
	September 10, 2018	18.1
5	September 11, 2018	18.1
6	September 12, 2018	18.1
7	September 13, 2018	18.1
8	July 1, 2019	18.8
	July 2, 2019	19.2
9	July 3, 2019	19.6
10	July 4, 2019	20.1
11	July 5, 2019	20.2
12	July 6, 2019	20.3
	July 7, 2019	20.4
13	July 8, 2019	20.7
14	July 9, 2019	20.9
15	July 10, 2019	20.9
16	July 11, 2019	20.9
	July 12, 2019	21
17	July 13, 2019	20.8
18	July 14, 2019	20.7
19	July 15, 2019	20.3
20	July 16, 2019	20
	July 17, 2019	20
21	July 18, 2019	20
22	July 19, 2019	19.8
23	July 20, 2019	20.3

COMPLAINT - 11

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1	July 21, 2019	20.5
2	July 22, 2019	20.7
3	July 23, 2019	20.9
4	July 24, 2019	20.9
	July 25, 2019	20.9
5	July 26, 2019	21
6	July 27, 2019	20.8
7	July 28, 2019	20.8
	July 29, 2019	20.1
8	July 30, 2019	19.5
9	July 31, 2019	19.1
10	September 1, 2019	19.9
11	September 2, 2019	19.9
12	September 3, 2019	20
	September 4, 2019	20.1
13	September 5, 2019	20.1
14	September 6, 2019	19.8
15	September 7, 2019	19.4
16	September 8, 2019	19
	September 9, 2019	18.7
17	September 10, 2019	18.5
18	September 11, 2019	18.5
19	September 12, 2019	18.5
20	September 13, 2019	18.5
	September 14, 2019	18.3
21	September 15, 2019	18.1
22	September 16, 2019	18
23	September 17, 2019	17.9

COMPLAINT - 12

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1	September 18, 2019	17.9
2	September 19, 2019	17.9
3	July 4, 2020	18.5
4	July 5, 2020	18.7
	July 6, 2020	19
5	July 7, 2020	19.5
6	July 8, 2020	19.5
7	July 9, 2020	19.5
	July 10, 2020	19.4
8	July 11, 2020	19.3
9	July 12, 2020	19.5
10	July 13, 2020	19.7
11	July 14, 2020	20
12	July 15, 2020	20
	July 16, 2020	20
13	July 17, 2020	20.4
14	July 18, 2020	20.8
15	July 19, 2020	21.2
16	July 20, 2020	21.5
	July 21, 2020	21.6
17	July 22, 2020	21.6
18	July 23, 2020	21.6
19	July 24, 2020	21.5
20	July 25, 2020	21.7
	July 26, 2020	21.5
21	July 27, 2020	21.5
22	July 28, 2020	21.8
23	July 29, 2020	21.5

COMPLAINT - 13

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1	July 30, 2020	21.1
2	July 31, 2020	20.5
3	August 18, 2020	21.6
4	August 19, 2020	21.6
	August 20, 2020	21.6
5	August 21, 2020	21.9
6	September 1, 2020	19.9
7	September 2, 2020	19.9
	September 3, 2020	19.7
8	September 4, 2020	19.6
9	September 5, 2020	19.7
10	September 6, 2020	19.1
11	September 7, 2020	18.7
12	September 8, 2020	18.1
	September 9, 2020	18.1
13	September 10, 2020	18.1
14	September 11, 2020	18
15	September 20, 2020	17.9
16	September 21, 2020	18.1
	September 22, 2020	18.1
17	September 23, 2020	18.1
18	September 24, 2020	18.1
19	July 1, 2021	23.1
20	July 2, 2021	23.1
	July 3, 2021	22.8
21	July 4, 2021	22.5
22	July 5, 2021	22.5
23	July 6, 2021	22.6

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1	July 7, 2021	22.6
2	July 8, 2021	22.6
3	July 9, 2021	22.6
4	July 10, 2021	22.7
	July 11, 2021	22.8
5	July 12, 2021	22.7
6	July 13, 2021	22.5
7	July 14, 2021	22.5
	July 15, 2021	22.5
8	July 16, 2021	22.4
9	July 17, 2021	22.4
10	July 18, 2021	22.3
11	July 19, 2021	22.1
12	July 20, 2021	22.0
	July 21, 2021	22.0
13	July 22, 2021	22.0
14	July 23, 2021	22.0
15	July 24, 2021	21.9
16	July 25, 2021	22.0
	July 26, 2021	22.2
17	July 27, 2021	22.3
18	July 28, 2021	22.3
19	July 29, 2021	22.5
20	July 30, 2021	22.4

21 23. Spangle has failed to monitor the specified parameters according to the schedule
22 established in the Permit. Spangle has failed to monitor influent flow data in gallons per day each
23 and every day from January 1, 2017 to the present. Spangle has failed to monitor influent pH in

COMPLAINT - 15

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1 standard units on January 3-6, 2017; January 9-13, 2017; January 17-20, 2017; January 23-27,
2 2017; January 30-31, 2017; February 1-3, 2017; February 6-10, 2017; February 13-17, 2017;
3 February 21-24, 2017; February 27-28, 2017; March 1-3, 2017; March 6-10, 2017; March 13-17,
4 2017; March 20-24, 2017; March 27-31, 2017; April 3-7, 2017; April 10-14, 2017; April 17-21,
5 2017; April 24-28, 2017; May 1, 2017; May 4-8, 2017; May 11-15, 2017; May 18-22, 2017;
6 May 25-28, 2017; June 1-2, 2017; June 5-9, 2017; June 12-16, 2017; June 19-23, 2017; June 26-
7 30, 2017; July 3, 2017; July 5-7, 2017; July 10-14, 2017; July 17-21, 2017; July 24-28, 2017;
8 July 31, 2017; August 1-4, 2017; August 7-11, 2017; August 14-18, 2017; August 21-25, 2017;
9 August 28-31, 2017; December 8, 2017; March 30, 2018; June 18, 2018; September 7, 2018;
10 October 5, 2018; April 19, 2019; July 26, 2019; August 23, 2019; and December 27, 2019.

11 Spangle has failed to monitor the following parameters two times per month during May 2017:
12 influent BOD₅ in mg/L, influent BOD₅ in lbs/day, influent TSS in mg/L, effluent BOD₅ in mg/L,
13 effluent BOD₅ in lbs/day, percent removal of influent BOD₅, effluent TSS in mg/L, effluent TSS
14 in lbs/day, percent removal of influent TSS, effluent ammonia, effluent fecal coliform in number
15 of colony forming units per 100 mL, and effluent phosphorus in mg/L. Spangle has failed to
16 monitor and calculate influent TSS in lbs/day two times in May 2017; August 23, 2018; and
17 November 21, 2019. Spangle has failed to monitor effluent flow in gallons per day on May 1-31,
18 2017. Spangle has failed to monitor effluent pH in standard units on March 15-17, 2017; May 1,
19 2017; May 4-8, 2017; May 11-15, 2017; May 18-22, 2017; May 25-28, 2017; July 5, 2017;
20 August 4, 2017; December 8, 2017; March 30, 2018; May 11, 2018; June 18, 2018; September 7,
21 2018; October 5, 2018; April 19, 2019; July 26, 2019; August 23, 2019; and December 27, 2019.
22 Spangle has failed to monitor effluent dissolved oxygen in mg/L on January 3-6, 2017; January
23 9-13, 2017; January 17-20, 2017; January 23-27, 2017; January 30-31, 2017; February 1-3, 2017;

1 February 6-10, 2017; February 13-17, 2017; February 21-24, 2017; February 27-28, 2017; March
 2 1-3, 2017; March 6-8, 2017; March 10, 2017; March 13-17, 2017; March 20-22, 2017; March
 3 24, 2017; March 27-31, 2017; May 1, 2017; May 4-8, 2017; May 11-15, 2017; May 18-22, 2017;
 4 May 25-28, 2017; July 5, 2017; August 4, 2017; December 8, 2017; March 30, 2018; May 11,
 5 2018; June 18, 2018; September 7, 2018; October 5, 2018; April 19, 2019; July 26, 2019; and
 6 August 23, 2019. Spangle has failed to measure effluent temperature in degrees Celsius on
 7 January 1-31, 2017; February 1-28, 2017; March 1-31, 2017; April 1-30, 2017; May 1-31, 2017;
 8 June 3-4, 2017; June 10-11, 2017; June 17-18, 2017; June 24-25, 2017; July 1-2, 2017; July 5,
 9 2017; July 8-9, 2017; July 15-16, 2017; July 22-23, 2017; July 29-30, 2017; August 4-5, 2017;
 10 August 12-13, 2017; August 19-20, 2017; August 26-27, 2017; September 2-4, 2017; September
 11 9-10, 2017; September 15-17, 2017; September 22-24, 2017; September 30, 2017; October 1,
 12 2017; October 1, 2017; October 7-8, 2017; October 14-15, 2017; October 21-22, 2017; October
 13 28-29, 2017; November 4-5, 2017; November 11-12, 2017; November 18-19, 2017; November
 14 23-26, 2017; December 2-3, 2017; December 8-10, 2017; December 16-17, 2017; December 23-
 15 25, 2017; December 30-31, 2017; January 1, 2018; January 6-7, 2018; January 13-15, 2018;
 16 January 20-21, 2018; January 27-28, 2018; February 3-4, 2018; February 10-11, 2018; February
 17 17-19, 2018; February 24-25, 2018; March 3-4, 2018; March 10-11, 2018; March 17-18, 2018;
 18 March 24-25, 2018; March 30-31, 2018; April 1, 2018; April 7-8, 2018; April 14-15, 2018; April
 19 21-22, 2018; April 28-29, 2018; May 5-6, 2018; May 11-13, 2018; May 19-20, 2018; May 26-
 20 28, 2018; June 2-3, 2018; June 9-10, 2018; June 16-18, 2018; June 23-24, 2018; June 30, 2018;
 21 July 1, 2018; July 4, 2018; July 7-8, 2018; July 14-15, 2018; July 21-22, 2018; July 28-29, 2018;
 22 August 4-5, 2018; August 11-12, 2018; August 18-19, 2018; August 25-26, 2018; September 1-
 23 3, 2018; September 7-9, 2018; September 15-16, 2018; September 22-23, 2018; September 29-

30, 2018; October 5-7, 2018; October 13-14, 2018; October 20-21, 2018; October 27-28, 2018;
 November 3-4, 2018; November 10-12, 2018; November 17-19, 2018; November 22-25, 2018;
 December 1-2, 2018; December 8-9, 2018; December 15-16, 2018; December 22-23, 2018;
 December 25, 2018; December 29-30, 2018; January 1, 2019; January 5-6, 2019; January 12-13,
 2019; January 19-21, 2019 January 26-27, 2019; February 2-3, 2019; February 9-10, 2019;
 February 16-18, 2019; February 23-24, 2019; March 2-3, 2019; March 9-10, 2019; March 16-17,
 2019; March 23-24, 2019; March 30-31, 2019; April 6-7, 2019; April 13-14, 2019; April 19-21,
 2019; April 27-28, 2019; May 4-5, 2019; May 11-12, 2019; May 18-19, 2019; May 25-27, 2019;
 June 1-2, 2019; June 8-9, 2019; June 15-16, 2019; June 22-23, 2019; June 29-30, 2019; July 6-7,
 2019; July 13-14, 2019; July 20-21, 2019; July 26-28, 2019; August 3-4, 2019; August 10-11,
 2019; August 17-18, 2019; August 23-25, 2019; August 31, 2019; September 1-2, 2019;
 September 7-8, 2019; September 14-15, 2019; September 21-22, 2019; September 28-29, 2019;
 October 5-6, 2019; October 12-13, 2019; October 19-20, 2019; October 26-27, 2019; November
 2-3, 2019; November 9-11, 2019; November 16-17, 2019; November 23-24, 2019; November
 28-30, 2019; December 1, 2019; December 7-8, 2019; December 14-15, 2019; December 21-22,
 2019; December 25, 2019; December 28-29, 2019; January 1, 2020; January 4-5, 2020; January
 11-12, 2020; January 18-20, 2020; January 25-26, 2020; February 1-2, 2020; February 8-9, 2020;
 February 15-17, 2020; February 22-23, 2020; February 29, 2020; March 1, 2020; March 7-8,
 2020; March 14-15, 2020; March 21-22, 2020; March 28-29, 2020; April 4-5, 2020; April 11-12,
 2020; April 18-19, 2020; April 25-26, 2020; May 2-3, 2020; May 9-10, 2020; May 16-17, 2020;
 May 23-25, 2020; May 30-31, 2020; June 6-7, 2020; June 13-14, 2020; June 20-21, 2020; June
 27-28, 2020; July 4-5, 2020; July 11-12, 2020; July 18-19, 2020; July 25-26, 2020; August 1-2,
 2020; August 8-9, 2020; August 15-16, 2020; August 22-23, 2020; August 29-30, 2020;

1 September 5-7, 2020; September 12-13, 2020; September 19-20, 2020; September 26-27, 2020;
2 October 3-4, 2020; October 10-11, 2020; October 17-18, 2020; October 24-25, 2020; October
3 31, 2020; November 1, 2020; November 7-8, 2020; November 11, 2020; November 14-15, 2020;
4 November 21-22, 2020; November 26-29, 2020; December 5-6, 2020; December 12-13, 2020;
5 December 19-20, 2020; December 25-27, 2020; January 1-3, 2021; January 9-10, 2021; January
6 16-18, 2021; January 23-24, 2021; January 30-31, 2021; February 6-7, 2021; February 13-15,
7 2021; February 20-21, 2021; February 27-28, 2021; March 6-7, 2021; March 13-14, 2021;
8 March 20-21, 2021; March 27-28, 2021; April 3-4, 2021; April 10-11, 2021; April 17-18, 2021;
9 April 24-25, 2021; May 1-2, 2021; May 8-9, 2021; May 15-16, 2021; May 22-23, 2021; May 29-
10 31, 2021; June 5-6, 2021; June 12-13, 2021; June 19-20, 2021; June 26-27, 2021; July 3-5, 2021;
11 July 10-11, 2021; July 17-18, 2021; July 24-25, 2021; and July 31, 2021. Spangle has failed to
12 monitor and calculate effluent 7-DADMax temperature in degrees Celsius on January 1-31,
13 2017; February 1-28, 2017; March 1-31, 2017; April 1-30, 2017; May 1-31, 2017; June 1-30,
14 2017; July 9, 2017; July 15-16, 2017; July 22-23, 2017; and July 29-30, 2017. Spangle has failed
15 to monitor creek flow presence two times in February 2017, two times in March 2017, two times
16 in April 2017, two times in May 2017, and two times in June 2017. Spangle has failed to monitor
17 total alkalinity, total hardness, soluble reactive phosphorus, nitrate plus nitrite nitrogen, total
18 dissolved solids, oil and grease, total copper, total zinc, and total lead in quarter one of 2019,
19 quarter two of 2019, quarter three of 2019, and quarter four of 2019.

20 24. Spangle is in violation of the Permit's requirements to take several actions when
21 Spangle violates or is unable to comply with a Permit condition, including each of the violations
22 identified in this Complaint. Spangle has not taken adequate action to stop, contain, and cleanup
23

1 unauthorized discharges, including and as indicated by the discharges in excess of effluent limits
2 identified above in paragraph 22.

3 25. Spangle has failed to report total alkalinity, total hardness, soluble reactive
4 phosphorus, nitrate plus nitrite nitrogen, total dissolved solids, oil and grease, total copper, total
5 zinc, and total lead from 2019 on the Permit renewal application due December 31, 2020.

6 Spangle failed to report these samples on its Permit renewal application submitted on or about
7 December 22, 2020 and continued to fail to report these samples on its modified Permit renewal
8 application submitted on or about March 16, 2021.

9 26. Spangle's samples and measurements taken do not represent the volume and
10 nature of its discharges.

11 27. Spangle is failing to use appropriate flow measurement, field measurement, and
12 continuous monitoring devices and methods. Spangle has failed to install a continuous
13 temperature monitoring device to monitor effluent temperature. Spangle has also failed to install
14 an influent flow meter to monitor influent flow.

15 28. Spangle has knowingly submitted false information to Ecology. The influent flow
16 data that Spangle reports on its Discharge Monitoring Reports ("DMRs") is copied from its
17 effluent flow monitoring results. Spangle has been submitting false influent flow data each and
18 every day from January 1, 2017 to the present.

19 29. Spangle failed to submit complete and accurate DMRs by the prescribed time for
20 January 2017, February 2017, March 2017, April 2017, July 2017, August 2017, September
21 2017, March 2018, July 2018, April 2019, January 2020, June 2020, October 2020, and
22 November 2020. Spangle continues to fail to submit a DMR for May 2017. Spangle has failed to
23 submit complete DMRs by failing to report the minimum effluent dissolved oxygen value in the

1 February 2017 DMR, maximum effluent temperature in the February 2017 DMR, maximum
2 effluent temperature in the March 2017 DMR, maximum effluent temperature in the April 2017
3 DMR, minimum influent pH in the July 2017 DMR, maximum influent pH in the July 2017
4 DMR, minimum influent pH in the August 2017 DMR, and maximum influent pH in the August
5 2017 DMR.

6 30. Spangle failed to report single analytical values below detection correctly for the
7 monthly average of ammonia in July 2017, daily maximum of ammonia in July 2017, monthly
8 average of ammonia in January 2018, daily maximum of ammonia in January 2018, monthly
9 average of ammonia in February 2018, daily maximum of ammonia in February 2018, monthly
10 average of ammonia in April 2018, monthly average of ammonia in June 2018, monthly average
11 of ammonia in September 2018, daily maximum of ammonia in September 2018, monthly
12 average of ammonia in November 2018, monthly average of ammonia in December 2018, daily
13 maximum of ammonia in December 2018, monthly average of ammonia in April 2019, monthly
14 average of ammonia in May 2019, daily maximum of ammonia in May 2019, monthly average
15 of ammonia in June 2019, monthly average of ammonia in December 2019, daily maximum of
16 ammonia in December 2019, monthly average of ammonia in February 2021, daily maximum of
17 ammonia in February 2021, and monthly average of ammonia in April 2021.

18 31. Spangle has failed to correctly calculate average values and calculate total values
19 using the reported numeric values when reporting data in its DMR. Spangle has failed to
20 correctly calculate the monthly geometric mean of effluent fecal coliform in colony forming
21 units per 100 mL using the reported values in the DMRs for February 2017, July 2017, October
22 2017, December 2017, January 2018, March 2018, November 2018, March 2019, October 2019,
23 November 2019, January 2020, April 2020, August 2020, September 2020, November 2020,

1 December 2020, June 2021, and July 2021. Spangle has failed to correctly calculate the weekly
2 geometric mean of effluent fecal coliform in colony forming units per 100 mL using the reported
3 values in the DMRs for February 2017 and March 2017. Spangle has failed to correctly calculate
4 the average weekly effluent BOD₅ in mg/L using the reported values in the March 2017 DMR.
5 Spangle has failed to correctly calculate the average monthly effluent BOD₅ in lbs/day using the
6 reported values in the DMRs in February 2017, February 2018, and March 2020. Spangle has
7 failed to correctly calculate the average weekly effluent BOD₅ in lbs/day using the reported
8 values in the DMRs in February 2017, February 2018, October 2018, and March 2020. Spangle
9 has failed to correctly calculate the average monthly percent removal of influent BOD₅ using the
10 reported values in the DMRs in December 2017, March 2018, March 2019, April 2019,
11 September 2019, December 2019, January 2020, February 2020, March 2020, May 2020, June
12 2020, September 2020, October 2020, December 2020, April 2021, and May 2021. Spangle has
13 failed to correctly calculate the average monthly effluent dissolved oxygen in mg/L using the
14 reported values in the February 2017 DMR. Spangle has failed to correctly calculate the average
15 monthly influent TSS in lbs/day using the reported values in the DMRs in March 2018 and May
16 2019. Spangle has failed to correctly calculate the average monthly effluent TSS in lbs/day using
17 the reported values in the February 2017 DMR. Spangle has failed to correctly calculate the
18 average weekly effluent TSS in lbs/day using the reported values in the DMRs in February 2017,
19 October 2018, and November 2020. Spangle has failed to correctly calculate the average weekly
20 effluent TSS in mg/L using the reported values in the DMRs in September 2017 and November
21 2020. Spangle has failed to correctly calculate the average monthly percent removal of influent
22 TSS using the reported values in the DMRs in November 2018, February 2019, March 2019,
23 September 2019, November 2019, February 2020, March 2020, May 2020, August 2020,

1 September 2020, November 2020, December 2020, February 2021, March 2021, April 2021,
2 May 2021, and June 2021. Spangle has failed to correctly calculate the average monthly effluent
3 ammonia in mg/L using the reported values in the DMRs in April 2018, June 2018, November
4 2018, April 2019, June 2019, March 2021, May 2021, and July 2021. In the alternative if
5 Spangle's calculations described in this paragraph are correct, then Spangle has failed to report
6 the results of all monitoring data in its DMRs.

7 32. Spangle has failed to retain records of all monitoring information for a minimum
8 of three years including original recordings for continuous monitoring instrumentation, copies of
9 all reports, records of all data used to complete the application for this Permit, and other
10 documentation.

11 33. Spangle has failed to immediately take action to stop contain, and cleanup
12 unauthorized discharges or otherwise stop the noncompliance and correct the problem;
13 immediately report to Ecology and the Local Health Jurisdiction failures of the disinfection
14 system, collection system overflows, plant bypasses resulting in a discharges, and any other
15 failures of the sewage system; report occurrences of noncompliance by telephone to Ecology
16 within 24 hours from the time Spangle becomes aware of the noncompliance; submit a written
17 report within five days of the time Spangle becomes aware of the noncompliance; and report all
18 Permit violations which do not require immediate or reporting within 24 hours when it submits
19 DMRs each and every time for the last five years that it was unable to comply with any Permit
20 condition.

21 34. Spangle has failed to verify operator certification for operators and submit an
22 electronic copy of an operator certification renewal card by May 15 each year. Spangle did not
23 submit the operator certification renewal card by the May 15 deadline in 2020 and 2021.

1 35. Spangle exceeded TSS influent loading limits and influent flow limits. The TSS
2 influent loading monthly maximum was exceeded in February 2017, March 2017, April 2017,
3 and March 2018. The flow influent monthly maximum was exceeded in September 2020.

4 36. Spangle failed to submit the required plans and schedule for continuing to
5 maintain capacity after exceeding the waste load for TSS influent loading in February 2017,
6 March 2017, and April 2017.

7 37. Spangle has failed to take all reasonable steps to minimize or prevent any
8 discharge, sludge use, or sludge disposal in violation of this Permit that has a reasonable
9 likelihood of adversely affecting human health or the environment.

10 38. Spangle has failed to conduct an infiltration and inflow evaluation and submit a
11 report summarizing the results of the infiltration and inflow evaluation by December 2, 2019.
12 Spangle did not submit the report until July 15, 2020.

13 39. Spangle failed to conduct an annual assessment of its influent flow and waste load
14 and submit a report to Ecology by March 15, 2017, and annually thereafter. Spangle failed to
15 submit the annual assessment by the prescribed time in 2017, 2018, 2019, and 2020.

16 40. Spangle failed to have proper operation and maintenance, which includes keeping
17 a daily operation logbook, adequate laboratory controls, and appropriate quality assurance
18 procedures.

19 41. Spangle failed to have an operator certified for at least a Class II plant by the State
20 of Washington responsible for, and in charge of, the day-to-day operations of the wastewater
21 treatment plant. The current operator, Logan Billington, is not a certified operator and has been
22 conducting the day-to-day operations at the facility since at least January 2020. In addition, the
23

1 Town Clerk is not a certified operator and sometimes completes testing for the daily parameters
2 as described in section V.B of the Notice Letter, attached hereto as Exhibit 1.

3 42. Spangle has failed to prevent a bypass that occurred during March 2017.

4 43. Spangle has failed to review the Operation and Maintenance Manual (“O&M
5 Manual”) at least annually and confirm this review by electronic letter to Ecology by March 15
6 of each year. Spangle failed to submit O&M Manuals by the prescribed time in 2020 and 2021.

7 44. Spangle has failed submit a list summarizing all existing and proposed significant
8 industrial users (“SIUs”) and potential significant industrial users (“PSIUs”) to Ecology by
9 March 15 of each year. Spangle failed to submit its annual list of SIUs and PSIUs by the
10 prescribed deadline in 2019, 2020, and 2021.

11 45. Since January 1, 2017, Spangle failed to provide Ecology with accurate effluent
12 temperature data on its DMRs that is required to be submitted with each annual Wasteload
13 Assessment.

14 46. Spangle has failed to control production and/or all discharges upon reduction,
15 loss, failure, or bypass of the treatment facility until the facility is restored or an alternative
16 method of treatment is provided in order to maintain compliance.

17 47. Each of Spangle’s violations of the Permit and the CWA are ongoing in that they
18 are currently occurring or are likely to re-occur at least intermittently in the future.

19 48. A significant penalty should be imposed against Spangle pursuant to the penalty
20 factors set forth in Section 309(d) of the CWA, 33 U.S.C. § 1319(d).

21 49. Spangle’s violations of the CWA degrade the environment and the water quality
22 of the receiving water bodies.

1 50. Spangle has benefited economically as a consequence of its CWA violations and
2 its failure to implement wastewater management improvements at the facility.

3 51. Spangle's violations were avoidable had Spangle been diligent in overseeing
4 facility operations and maintenance.

5 52. In accordance with Section 505(c)(3) of the CWA, 33 U.S.C. § 1365(c)(3), and 40
6 C.F.R. § 135.4, Spokane Riverkeeper is mailing a copy of this Complaint to the Administrator of
7 the EPA, the Regional Administrator for Region 10 of the EPA, and the Attorney General of the
8 United States.

9 **VI. CAUSE OF ACTION**

10 53. The preceding paragraphs and the allegations in the Notice Letter attached hereto
11 as Exhibit 1 are incorporated herein.

12 54. Spangle's violations of the Permit described herein and in the Notice Letter
13 constitute violations of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and
14 violations of an "effluent standards or limitations" as defined by Section 505(f) of the CWA, 33
15 U.S.C. § 1365(f).

16 55. These violations committed by Spangle are ongoing or are reasonably likely to
17 continue to occur. Any and all additional violations of the Permit and the CWA which occur
18 after those described in Spokane Riverkeeper's Notice Letter, but before a final decision in this
19 action, should be considered continuing violations subject to this Complaint.

20 56. Without the imposition of appropriate civil penalties and the issuance of an
21 injunction, Spangle is likely to continue to violate the Permit and the CWA to the further injury
22 of Spokane Riverkeeper, its members, and others.

VII. RELIEF REQUESTED

Wherefore, Spokane Riverkeeper respectfully requests that this Court grant the following relief:

A. Issue a declaratory judgment that Spangle has violated and continues to be in violation of the Permit and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342;

B. Enjoin Spangle from operating its facility in a manner that results in further violations of the Permit or the CWA;

C. Order Spangle to allow Spokane Riverkeeper to participate in the development and implementation of a plan to achieve compliance with the Permit and the CWA;

D. Order Spangle to provide Spokane Riverkeeper, for a period beginning on the date of the Court's Order and running for three years after Spangle achieves compliance with all of the conditions of the Permit, with copies of all reports and other documents which Spangle submits to the EPA or to the Ecology regarding Spangle's coverage under the Permit at the time it is submitted to these authorities;

E. Order Spangle to take specific actions to remediate the environmental harm caused by its violations;

F. Order Spangle to pay civil penalties of \$55,800.00 per day of violation for each violation committed by Spangle pursuant to Sections 309(d) and 505(a) of the CWA, 33 U.S.C. §§ 1319(d) and 1365(a), and 40 C.F.R. § 19 and 19.4;

G. Award Spokane Riverkeeper its litigation expenses, including reasonable attorneys' and expert witness fees, as authorized by Section 505(d) of the CWA, 33 U.S.C. § 1365(d), and any other applicable authorization; and

H. Award such other relief as this Court deems appropriate.

1 RESPECTFULLY SUBMITTED this 14th day of September, 2021.

2
3 By: By: *s/ Richard A. Smith*
Richard A. Smith, WSBA #21788
4 By: *s/ Savannah Rose*
Savannah Rose, WSBA #57062
Attorneys for Spokane Riverkeeper
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Exhibit 1

SMITH & LOWNEY, PLLC

2317 EAST JOHN STREET
SEATTLE, WASHINGTON 98112
(206) 860-2883, FAX (206) 860-4187

June 30, 2021

Via Certified Mail - Return Receipt Requested

The Honorable Melissa Holling
City Hall Spangle
W 115 Second St
Spangle, Washington 99031

The Honorable Melissa Holling
Town of Spangle
P.O. Box 147
Spangle, WA 99301

Re: NOTICE OF INTENT TO SUE UNDER THE CLEAN WATER ACT

Dear Mayor Holling:

We represent Spokane Riverkeeper, 35 W Main Ave., Ste 308, Spokane, WA 99201, (509) 464-7614. Any response or correspondence related to this matter should be directed to us at the letterhead address. This letter is to provide you with sixty days' notice of Spokane Riverkeeper's intent to file a citizen suit against the Town of Spangle ("Spangle"), under Section 505 of the Clean Water Act ("CWA"), 33 U.S.C. § 1365, for the violations described below.

Spangle was granted coverage for its wastewater treatment plant under the Waste Discharge Permit issued by the Washington Department of Ecology ("Ecology") effective January 1, 2017, NPDES No. WA099101 (the "Permit").

Spangle has violated and continues to violate effluent standards and limitations under the CWA (see 33 U.S.C. §§ 1365(a)(1), (f)(1), (f)(7); 33 U.S.C. § 1311(a) (unpermitted discharge)) including the terms and conditions of the Permit with respect to operations of, and discharges of wastewater and pollutants from its wastewater treatment facility located at or about N 700 Old Highway 195 Spangle, WA 99031; 675 N. Old SR 195 Spangle, Washington 9903; or 47°43'40.59"N, 117°38'41.85"W (the "facility")¹ as described herein, to Spangle Creek. The facility subject to this notice includes any contiguous or adjacent properties owned or operated by Spangle.

¹ These various addresses for Spangle come from PARIS, the Washington Office of the Secretary of State website, and Google Maps. We intend to sue with regard to all Spangle facilities, if in fact they refer to different locations.

I. EFFLUENT LIMIT VIOLATIONS

A. Condition S1.A of the Permit establishes numerical effluent limitations for discharges of biochemical oxygen demand (five-day) (“BOD₅”), total suspended solids (“TSS”), pH, fecal coliform bacteria (“fecal coliform”), total ammonia as NH₃-N (“ammonia”), temperature, and 7-DADMax temperature. Spangle has violated the Permit’s effluent limitations as described below.

i. Condition S1.A of the Permit establishes the monthly average effluent limitation for BOD₅ concentration at 10 mg/L. Spangle has violated this limitation:

<u>Month of Violation</u>	<u>Reported BOD₅ Value (mg/L)</u>
July 2019	14.4
June 2020	11.4

ii. Condition S1.A of the Permit establishes the average weekly effluent limitation for BOD₅ concentration at 15 mg/L. Spangle has violated this limitation:

<u>Week of Violation</u>	<u>Reported BOD₅ Value (mg/L)</u>
July 21, 2019	24.5
May 31, 2020	15.7

iii. Condition S1.A of the Permit establishes the average monthly effluent limitation for BOD₅ loading at 5.7 lbs/day. Spangle has violated this limitation:

<u>Month of Violation</u>	<u>Reported BOD₅ Value (lbs/day)</u>
February 2017	8.5

iv. Condition S1.A of the Permit establishes the average weekly effluent limitation for BOD₅ loading at 8.5 lbs/day. Spangle has violated this limitation:

<u>Week of Violation</u>	<u>Reported BOD₅ Value (lbs/day)</u>
February 2017 (exact week known to Spangle)	13

v. Condition S1.A of the Permit establishes the average monthly effluent limitation for TSS concentration at 15 mg/L. Spangle has violated this limitation:

<u>Month of Violation</u>	<u>Reported TSS Value (mg/L)</u>
July 2019	29.5
October 2020	25
November 2020	21.25
February 2021	36

vi. Condition S1.A of the Permit establishes the average weekly effluent limitation for TSS concentration at 23 mg/L. Spangle has violated this limitation:

<u>Week of Violation</u>	<u>Reported TSS Value (mg/L)</u>
---------------------------------	---

July 21, 2019	54
October 4, 2020	32
February 14, 2021	70

vii. Condition S1.A of the Permit establishes the average monthly effluent limitation for influent TSS percent removal at greater than or equal to 85%. Spangle has violated this limitation:

<u>Month of Violation</u>	<u>Reported TSS Value (%)</u>
October 2020	79.5
November 2020	80.7
February 2021	20.9
March 2021	81.5

viii. Condition S1.A of the Permit establishes the average monthly effluent limitation for ammonia concentration at 1 mg/L. Spangle has violated this limitation:

<u>Month of Violation</u>	<u>Reported Ammonia Value (mg/L)</u>
October 2020	1.75
May 2021	2

ix. Condition S1.A of the Permit establishes the maximum daily effluent limitation for ammonia concentration at 1.5 mg/L. Spangle has violated this limitation:

<u>Date of Violation</u>	<u>Reported Ammonia Value (mg/L)</u>
July 25, 2019	2.2
October 8, 2020	2.1
March 4, 2021	2.3
May 6, 2021	1.9
May 20, 2021	1.7

x. Condition S1.A of the Permit establishes the monthly geometric mean effluent limitation for fecal coliform concentration at 100 colony forming units per 100 mL. Spangle has violated this limitation:

<u>Month of Violation</u>	<u>Reported Fecal Coliform Value (Number of Colony Forming Units per 100 mL)</u>
July 2017	324.037

xi. Condition S1.A of the Permit establishes the weekly geometric mean effluent limitation for fecal coliform concentration at 200 colony forming units per 100 mL. Spangle has violated this limitation:

<u>Week of Violation</u>	<u>Reported Fecal Coliform Value (Number of Colony Forming Units per 100 mL)</u>
July 2, 2017	350

July 17, 2017

300

xii. Condition S1.A of the Permit establishes the maximum daily effluent limitation for 7-DADMax temperature at 18.2°C for July, 21.5°C for August, and 17.7°C for September. Spangle has violated this limitation:

<u>Date of Violation</u>	<u>Reported Temperature Value (°C)</u>
July 1, 2017	21.3
July 2, 2017	21.3
July 3, 2017	21.4
July 4, 2017	21.4
July 5, 2017	21.4
July 6, 2017	21.4
July 7, 2017	21.7
July 8, 2017	21.7
July 10, 2017	21.9
July 11, 2017	22.2
July 12, 2017	22.2
July 13, 2017	22.2
July 14, 2017	21.8
July 17, 2017	21
July 18, 2017	20.8
July 19, 2017	20.8
July 20, 2017	20.8
July 21, 2017	20.8
July 24, 2017	21.3
July 25, 2017	21.5
July 26, 2017	21.5
July 27, 2017	21.5
July 28, 2017	21.6
July 31, 2017	21.9
August 1, 2017	21.6
September 1, 2017	20.7
September 2, 2017	20.5
September 3, 2017	20.3
September 4, 2017	20.1
September 5, 2017	20.1
September 6, 2017	20.1
September 7, 2017	20.1
September 8, 2017	20.1
September 9, 2017	20
September 10, 2017	19.8
September 11, 2017	19.5
September 12, 2017	19.3
September 13, 2017	19.3
September 14, 2017	19.3

September 15, 2017	18.3
September 29, 2017	17.8
September 30, 2017	18.5
September 1, 2018	18.4
September 2, 2018	18.4
September 3, 2018	18.4
September 4, 2018	18.4
September 5, 2018	18.4
September 6, 2018	18.4
September 7, 2018	18.5
September 8, 2018	18.3
September 9, 2018	18.2
September 10, 2018	18.1
September 11, 2018	18.1
September 12, 2018	18.1
September 13, 2018	18.1
July 1, 2019	18.8
July 2, 2019	19.2
July 3, 2019	19.6
July 4, 2019	20.1
July 5, 2019	20.2
July 6, 2019	20.3
July 7, 2019	20.4
July 8, 2019	20.7
July 9, 2019	20.9
July 10, 2019	20.9
July 11, 2019	20.9
July 12, 2019	21
July 13, 2019	20.8
July 14, 2019	20.7
July 15, 2019	20.3
July 16, 2019	20
July 17, 2019	20
July 18, 2019	20
July 19, 2019	19.8
July 20, 2019	20.3
July 21, 2019	20.5
July 22, 2019	20.7
July 23, 2019	20.9
July 24, 2019	20.9
July 25, 2019	20.9
July 26, 2019	21
July 27, 2019	20.8
July 28, 2019	20.8
July 29, 2019	20.1
July 30, 2019	19.5

July 31, 2019	19.1
September 1, 2019	19.9
September 2, 2019	19.9
September 3, 2019	20
September 4, 2019	20.1
September 5, 2019	20.1
September 6, 2019	19.8
September 7, 2019	19.4
September 8, 2019	19
September 9, 2019	18.7
September 10, 2019	18.5
September 11, 2019	18.5
September 12, 2019	18.5
September 13, 2019	18.5
September 14, 2019	18.3
September 15, 2019	18.1
September 16, 2019	18
September 17, 2019	17.9
September 18, 2019	17.9
September 19, 2019	17.9
July 4, 2020	18.5
July 5, 2020	18.7
July 6, 2020	19
July 7, 2020	19.5
July 8, 2020	19.5
July 9, 2020	19.5
July 10, 2020	19.4
July 11, 2020	19.3
July 12, 2020	19.5
July 13, 2020	19.7
July 14, 2020	20
July 15, 2020	20
July 16, 2020	20
July 17, 2020	20.4
July 18, 2020	20.8
July 19, 2020	21.2
July 20, 2020	21.5
July 21, 2020	21.6
July 22, 2020	21.6
July 23, 2020	21.6
July 24, 2020	21.5
July 25, 2020	21.7
July 26, 2020	21.5
July 27, 2020	21.5
July 28, 2020	21.8
July 29, 2020	21.5

July 30, 2020	21.1
July 31, 2020	20.5
August 18, 2020	21.6
August 19, 2020	21.6
August 20, 2020	21.6
August 21, 2020	21.9
September 1, 2020	19.9
September 2, 2020	19.9
September 3, 2020	19.7
September 4, 2020	19.6
September 5, 2020	19.7
September 6, 2020	19.1
September 7, 2020	18.7
September 8, 2020	18.1
September 9, 2020	18.1
September 10, 2020	18.1
September 11, 2020	18
September 20, 2020	17.9
September 21, 2020	18.1
September 22, 2020	18.1
September 23, 2020	18.1
September 24, 2020	18.1

II. SAMPLING AND MONITORING REQUIREMENT VIOLATIONS

A. Condition S2.A of the Permit requires Spangle to monitor specified parameters according to the established schedule for influent into the facility and effluent generated at the facility. Spangle has violated and continues to violate this condition by failing to monitor as identified below:

i. Condition S2.A of the Permit requires that influent flow be monitored in gallons per day continuously. Spangle copied the effluent flow data and reported it as influent flow data each and every day from January 1, 2017 to the present. Spangle's discharge monitoring reports ("DMRs") show identical influent and effluent flow values on these dates. The September 2017 DMR also noted that Spangle "[w]ill use effluent flow numbers for influent flow until an influent flow meter is installed." Spangle is in violation of this condition because it has failed to monitor influent flow data in gallons per day each and every day from January 1, 2017 to the present.

ii. Condition S2.A of the Permit requires that influent pH be monitored in standard units five days per week. Spangle violated this condition by failing to monitor influent pH in standard units on January 3-6, 2017; January 9-13, 2017; January 17-20, 2017; January 23-27, 2017; January 30-31, 2017; February 1-3, 2017; February 6-10, 2017; February 13-17, 2017; February 21-24, 2017; February 27-28, 2017; March 1-3, 2017; March 6-10, 2017; March 13-17, 2017; March 20-24, 2017; March 27-31, 2017; April 3-7, 2017; April 10-14, 2017; April 17-21, 2017; April 24-28, 2017; May 1, 2017; May 4-8, 2017; May

11-15, 2017; May 18-22, 2017; May 25-28, 2017; June 1-2, 2017; June 5-9, 2017; June 12-16, 2017; June 19-23, 2017; June 26-30, 2017; July 3, 2017; July 5-7, 2017; July 10-14, 2017; July 17-21, 2017; July 24-28, 2017; July 31, 2017; August 1-4, 2017; August 7-11, 2017; August 14-18, 2017; August 21-25, 2017; August 28-31, 2017; November 24, 2017; December 8, 2017; March 30, 2018; June 18, 2018; September 7, 2018; October 5, 2018; November 23, 2018; April 19, 2019; July 26, 2019; August 23, 2019; November 29, 2019; December 27, 2019; and November 27, 2020.

iii. Condition S2.A of the Permit requires that influent BOD₅ be monitored in mg/L two times per month. Spangle violated this condition by failing to monitor influent BOD₅ in mg/L two times in May 2017.

iv. Condition S2.A of the Permit requires that influent BOD₅ be monitored and calculated in lbs/day two times per month. Spangle violated this condition by failing to monitor and calculate influent BOD₅ in lbs/day two times in May 2017.

v. Condition S2.A of the Permit requires that influent TSS be monitored in mg/L two times per month. Spangle violated this condition by failing to monitor influent TSS in mg/L two times in May 2017.

vi. Condition S2.A of the Permit requires that influent TSS be monitored and calculated in lbs/day two times per month. Spangle violated this condition by failing to monitor and calculate influent TSS in lbs/day two times in May 2017; August 23, 2018; and November 21, 2019.

vii. Condition S2.A of the Permit requires that effluent flow be monitored in gallons per day continuously. Spangle violated this condition by failing to monitor effluent flow in gallons per day on May 1-31, 2017.

viii. Condition S2.A of the Permit requires that effluent pH be monitored in standard units five days per week. Spangle violated this condition by failing to monitor effluent pH in standard units on March 15-17, 2017; May 1, 2017; May 4-8, 2017; May 11-15, 2017; May 18-22, 2017; May 25-28, 2017; July 5, 2017; August 4, 2017; November 24, 2017; December 8, 2017; March 30, 2018; May 11, 2018; June 18, 2018; September 7, 2018; October 5, 2018; November 23, 2018; April 19, 2019; July 26, 2019; August 23, 2019; November 29, 2019; December 27, 2019; and November 27, 2020.

ix. Condition S2.A of the Permit requires that effluent dissolved oxygen be monitored in mg/L five days per week. Spangle violated this condition by failing to monitor effluent dissolved oxygen in mg/L on January 3-6, 2017; January 9-13, 2017; January 17-20, 2017; January 23-27, 2017; January 30-31, 2017; February 1-3, 2017; February 6-10, 2017; February 13-17, 2017; February 21-24, 2017; February 27-28, 2017; March 1-3, 2017; March 6-8, 2017; March 10, 2017; March 13-17, 2017; March 20-22, 2017; March 24, 2017; March 27-31, 2017; May 1, 2017; May 4-8, 2017; May 11-15, 2017; May 18-22, 2017; May 25-28, 2017; July 5, 2017; August 4, 2017; November 24, 2017; December 8, 2017; March 30, 2018; May 11, 2018; June 18, 2018; September 7, 2018; October 5, 2018; November 23, 2018;

April 19, 2019; July 26, 2019; August 23, 2019; November 29, 2019; and November 27, 2020.

x. Condition S2.A of the Permit requires that effluent BOD₅ be monitored in mg/L two times per month. Spangle violated this condition by failing to monitor effluent BOD₅ in mg/L two times in May 2017.

xi. Condition S2.A of the Permit requires that effluent BOD₅ be monitored and calculated in lbs/day two times per month. Spangle violated this condition by failing to monitor and calculate effluent BOD₅ in lbs/day two times in May 2017.

xii. Condition S2.A of the Permit requires that percent removal of influent BOD₅ be monitored and calculated two times per month. Spangle violated this condition by failing to monitor and calculate percent removal of influent BOD₅ two times in May 2017.

xiii. Condition S2.A of the Permit requires that effluent TSS be monitored in mg/L two times per month. Spangle violated this condition by failing to monitor effluent TSS in mg/L two times in May 2017.

xiv. Condition S2.A of the Permit requires that effluent TSS be monitored and calculated in lbs/day two times per month. Spangle violated this condition by failing to monitor and calculate effluent TSS in lbs/day two times in May 2017.

xv. Condition S2.A of the Permit requires that percent removal of influent TSS be monitored and calculated two times per month. Spangle violated this condition by failing to monitor and calculate percent removal of influent TSS two times in May 2017.

xvi. Condition S2.A of the Permit requires that effluent ammonia be monitored in mg/L two times per month. Spangle violated this condition by failing to monitor effluent ammonia two times in May 2017.

xvii. Condition S2.A of the Permit requires that effluent fecal coliform be monitored in number of colony forming units per 100 mL two times per month. Spangle violated this condition by failing to monitor effluent fecal coliform in number of colony forming units per 100 mL two times in May 2017.

xviii. Condition S2.A of the Permit requires that effluent phosphorus be monitored in mg/L two times per month. Spangle violated this condition by failing to monitor effluent phosphorus in mg/L two times in May 2017.

xix. Condition S2.A of the Permit requires that effluent temperature be measured in degrees Celsius continuously. Spangle violated this condition by failing to measure effluent temperature in degrees Celsius on January 1-31, 2017; February 1-28, 2017; March 1-31, 2017; April 1-30, 2017; May 1-31, 2017; June 3-4, 2017; June 10-11, 2017; June 17-18, 2017; June 24-25, 2017; July 1-2, 2017; July 5, 2017; July 8-9, 2017; July 15-16, 2017; July 22-23, 2017; July 29-30, 2017; August 4-5, 2017; August 12-13, 2017; August 19-20, 2017; August

26-27, 2017; September 2-4, 2017; September 9-10, 2017; September 15-17, 2017; September 22-24, 2017; September 30, 2017; October 1, 2017; October 1, 2017; October 7-8, 2017; October 14-15, 2017; October 21-22, 2017; October 28-29, 2017; November 4-5, 2017; November 11-12, 2017; November 18-19, 2017; November 23-26, 2017; December 2-3, 2017; December 8-10, 2017; December 16-17, 2017; December 23-25, 2017; December 30-31, 2017; January 1, 2018; January 6-7, 2018; January 13-15, 2018; January 20-21, 2018; January 27-28, 2018; February 3-4, 2018; February 10-11, 2018; February 17-19, 2018; February 24-25, 2018; March 3-4, 2018; March 10-11, 2018; March 17-18, 2018; March 24-25, 2018; March 30-31, 2018; April 1, 2018; April 7-8, 2018; April 14-15, 2018; April 21-22, 2018; April 28-29, 2018; May 5-6, 2018; May 11-13, 2018; May 19-20, 2018; May 26-28, 2018; June 2-3, 2018; June 9-10, 2018; June 16-18, 2018; June 23-24, 2018; June 30, 2018; July 1, 2018; July 4, 2018; July 7-8, 2018; July 14-15, 2018; July 21-22, 2018; July 28-29, 2018; August 4-5, 2018; August 11-12, 2018; August 18-19, 2018; August 25-26, 2018; September 1-3, 2018; September 7-9, 2018; September 15-16, 2018; September 22-23, 2018; September 29-30, 2018; October 5-7, 2018; October 13-14, 2018; October 20-21, 2018; October 27-28, 2018; November 3-4, 2018; November 10-12, 2018; November 17-19, 2018; November 22-25, 2018; December 1-2, 2018; December 8-9, 2018; December 15-16, 2018; December 22-23, 2018; December 25, 2018; December 29-30, 2018; January 1, 2019; January 5-6, 2019; January 12-13, 2019; January 19-21, 2019; January 26-27, 2019; February 2-3, 2019; February 9-10, 2019; February 16-18, 2019; February 23-24, 2019; March 2-3, 2019; March 9-10, 2019; March 16-17, 2019; March 23-24, 2019; March 30-31, 2019; April 6-7, 2019; April 13-14, 2019; April 19-21, 2019; April 27-28, 2019; May 4-5, 2019; May 11-12, 2019; May 18-19, 2019; May 25-27, 2019; June 1-2, 2019; June 8-9, 2019; June 15-16, 2019; June 22-23, 2019; June 29-30, 2019; July 6-7, 2019; July 13-14, 2019; July 20-21, 2019; July 26-28, 2019; August 3-4, 2019; August 10-11, 2019; August 17-18, 2019; August 23-25, 2019; August 31, 2019; September 1-2, 2019; September 7-8, 2019; September 14-15, 2019; September 21-22, 2019; September 28-29, 2019; October 5-6, 2019; October 12-13, 2019; October 19-20, 2019; October 26-27, 2019; November 2-3, 2019; November 9-11, 2019; November 16-17, 2019; November 23-24, 2019; November 28-30, 2019; December 1, 2019; December 7-8, 2019; December 14-15, 2019; December 21-22, 2019; December 25, 2019; December 28-29, 2019; January 1, 2020; January 4-5, 2020; January 11-12, 2020; January 18-20, 2020; January 25-26, 2020; February 1-2, 2020; February 8-9, 2020; February 15-17, 2020; February 22-23, 2020; February 29, 2020; March 1, 2020; March 7-8, 2020; March 14-15, 2020; March 21-22, 2020; March 28-29, 2020; April 4-5, 2020; April 11-12, 2020; April 18-19, 2020; April 25-26, 2020; May 2-3, 2020; May 9-10, 2020; May 16-17, 2020; May 23-25, 2020; May 30-31, 2020; June 6-7, 2020; June 13-14, 2020; June 20-21, 2020; June 27-28, 2020; July 4-5, 2020; July 11-12, 2020; July 18-19, 2020; July 25-26, 2020; August 1-2, 2020; August 8-9, 2020; August 15-16, 2020; August 22-23, 2020; August 29-30, 2020; September 5-7, 2020; September 12-13, 2020; September 19-20, 2020; September 26-27, 2020; October 3-4, 2020; October 10-11, 2020; October 17-18, 2020; October 24-25, 2020; October 31, 2020; November 1, 2020; November 7-8, 2020; November 11, 2020; November 14-15, 2020; November 21-22, 2020; November 26-29, 2020; December 5-6, 2020; December 12-13, 2020; December 19-20, 2020; December 25-27, 2020; January 1-3, 2021; January 9-10, 2021; January 16-18, 2021; January 23-24, 2021; January 30-31, 2021; February 6-7, 2021; February 13-15, 2021; February 20-21, 2021; February 27-28, 2021; March 6-7, 2021; March 13-14, 2021; March 20-21, 2021; March 27-28, 2021; April 3-4,

2021; April 10-11, 2021; April 17-18, 2021; April 24-25, 2021; May 1-2, 2021; May 8-9, 2021; May 15-16, 2021; May 22-23, 2021; and May 29-31, 2021.

xx. Condition S2.A of the Permit requires that effluent 7-DADMax temperature be monitored and calculated in degrees Celsius from the continuous temperature measurements. Spangle violated this condition by failing to monitor and calculate effluent 7-DADMax temperature in degrees Celsius on January 1-31, 2017; February 1-28, 2017; March 1-31, 2017; April 1-30, 2017; May 1-31, 2017; June 1-30, 2017; July 9, 2017; July 15-16, 2017; July 22-23, 2017; and July 29-30, 2017.

xxi. Condition S2.A of the Permit requires that creek flow presence be monitored two times per month. Spangle violated this condition by failing to monitor creek flow presence two times in February 2017, two times in March 2017, two times in April 2017, two times in May 2017, and two times in June 2017.

xxii. Condition S2.A of the Permit requires that total alkalinity, total hardness, soluble reactive phosphorus, nitrate plus nitrite nitrogen, total dissolved solids, oil and grease, total copper, total zinc, and total lead be monitored once per quarter each quarter in 2019. Spangle violated this condition by failing to monitor each of these parameters in quarter one of 2019, quarter two of 2019, quarter three of 2019, and quarter four of 2019.

B. Condition S2.A of the Permit requires Spangle to report quarterly samples of total alkalinity, total hardness, soluble reactive phosphorus, nitrate plus nitrite nitrogen, total dissolved solids, oil and grease, total copper, total zinc, and total lead from 2019 on the permit renewal application due December 31, 2020. Spangle continues to violate this condition because it did not report these samples in its permit renewal application submitted on or about December 22, 2020. Spangle also did not report these samples in its modified permit renewal application submitted on or about March 16, 2021.

C. Condition S2.B of the Permit requires that Spangle's samples and measurements taken meet the requirements of this permit and represent the volume and nature of the monitored parameters. *See Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136 (or as applicable in 40 CFR subchapters N [Parts 400–471] or O [Parts 501-503]). Spangle continues to violate this condition because its influent and effluent sampling does not accurately represent the quality of the wastewater as identified on page 30 of the Fact Sheet for NPDES Permit WA0991010 Town of Spangle WWTP, effective January 1, 2017.

D. Condition S2.C of the Permit requires Spangle to select and use appropriate flow measurement, field measurement, and continuous monitoring devices and methods consistent with accepted scientific practices; install, calibrate, maintain these devices to ensure the accuracy of the measure is consistent with the accepted industry standard, manufacturer's recommendation, and approved O&M manual procedures for the device and the wastestream; calibrate continuous monitoring instruments weekly; use field measurement devices as directed by the manufacturer; establish a calibration frequency for each device or instrument in the O&M manual that conforms to the frequency recommended by the manufacturer;

calibrate flow-monitoring devices at a minimum frequency of at least one calibration per year; and maintain calibration records for at least three years. Spangle continues to violate these requirements because it has failed to install an influent flow meter as noted in the September 2017 DMR and has failed to install a continuous temperature monitoring device to monitor effluent temperature as noted in the April 17, 2018 Ecology inspection report.

III. REPORTING AND RECORD KEEPING REQUIREMENTS

A. Condition S3 of the Permit provides that falsification of information submitted to Ecology is a violation of the terms and conditions of the Permit. Condition S3.G.b of the Permit requires that when Spangle becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to Ecology, it must submit such facts or information promptly. Spangle is in violation of these conditions because it copied the effluent flow data and reported it as influent flow data each and every day beginning on January 1, 2017. Spangle's DMRs show identical influent and effluent flow values from January 1, 2017 to the present. The September 2017 DMR also noted that Spangle "[w]ill use effluent flow numbers for influent flow until an influent flow meter is installed." Spangle continues to violate this condition because it continues to submit false information to Ecology.

B. Condition S3.A of the Permit requires Spangle to summarize, report, and submit monitoring data obtained during each monitoring period on the electronic DMR form provided by Ecology within the Water Quality Permitting Portal. Condition S3.A.10.a of the Permit requires Spangle to submit DMRs by the 15th day of the following month. Spangle is in violation of this condition by failing to submit a DMR within the prescribed time for January 2017, February 2017, March 2017, April 2017, July 2017, August 2017, September 2017, March 2018, July 2018, April 2019, January 2020, June 2020, October 2020, and November 2020. Spangle continues to violate this condition by failing to submit a DMR for May 2017. Spangle is also in violation of this condition for failing to report the minimum effluent dissolved oxygen value in the February 2017 DMR, maximum effluent temperature in the February 2017 DMR, maximum effluent temperature in the March 2017 DMR, maximum effluent temperature in the April 2017 DMR, minimum influent pH in the July 2017 DMR, maximum influent pH in the July 2017 DMR, minimum influent pH in the August 2017 DMR, and maximum influent pH in the August 2017 DMR.

C. Condition S3.A.2 of the Permit requires Spangle to report single analytical values below detection as "less than the detection level (DL)" by entering "<" followed by the numeric value of the detection level on the DMR. Spangle is in violation of this condition each time that it incorrectly reported DMR values below the detection limit as noted in the April 17, 2018 Ecology inspection report, including monthly average of ammonia in July 2017, daily maximum of ammonia in July 2017, monthly average of ammonia in January 2018, daily maximum of ammonia in January 2018, monthly average of ammonia in February 2018, daily maximum of ammonia in February 2018, monthly average of ammonia in April 2018, monthly average of ammonia in June 2018, monthly average of ammonia in September 2018, daily maximum of ammonia in September 2018, monthly average of ammonia in November 2018, monthly average of ammonia in December 2018, daily maximum of

ammonia in December 2018, monthly average of ammonia in April 2019, monthly average of ammonia in May 2019, daily maximum of ammonia in May 2019, monthly average of ammonia in June 2019, monthly average of ammonia in December 2019, daily maximum of ammonia in December 2019, monthly average of ammonia in February 2021, daily maximum of ammonia in February 2021, and monthly average of ammonia in April 2021.

D. Condition S3.A.7.a of the Permit requires Spangle to calculate average values and calculate total values using the reported numeric value for all parameters measured between the agency-required detection value and the agency-required quantitation value. Spangle is in violation of this condition each and every time that it incorrectly calculated a value on its DMRs, including the violations identified below:

i. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the monthly geometric mean of effluent fecal coliform in colony forming units per 100 mL using the reported values in the DMRs for February 2017, July 2017, October 2017, December 2017, January 2018, March 2018, November 2018, March 2019, October 2019, November 2019, January 2020, April 2020, August 2020, September 2020, November 2020, and December 2020.

ii. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the weekly geometric mean of effluent fecal coliform in colony forming units per 100 mL using the reported values in the DMRs for February 2017 and March 2017.

iii. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the average weekly effluent BOD₅ in mg/L using the reported values in the March 2017 DMR.

iv. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the average monthly effluent BOD₅ in lbs/day using the reported values in the DMRs in February 2017, February 2018, and March 2020.

v. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the average weekly effluent BOD₅ in lbs/day using the reported values in the DMRs in February 2017, February 2018, October 2018, and March 2020.

vi. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the average monthly percent removal of influent BOD₅ using the reported values in the DMRs in December 2017, March 2018, March 2019, April 2019, September 2019, December 2019, January 2020, February 2020, March 2020, May 2020, June 2020, September 2020, October 2020, December 2020, April 2021, and May 2021.

vii. Spangle is in violation of Condition S3.A.7.a of the Permit because it failed to correctly calculate the average monthly effluent dissolved oxygen in mg/L using the reported values in the February 2017 DMR.

viii. Spangle is in violation of Conditions S3.A.7.a of the Permit because it failed to correctly calculate the average monthly influent TSS in lbs/day using the reported values in the DMRs in March 2018 and May 2019.

ix. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the average monthly effluent TSS in lbs/day using the reported values in the February 2017 DMR.

x. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the average weekly effluent TSS in lbs/day using the reported values in the DMRs in February 2017, October 2018, and November 2020.

xi. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the average weekly effluent TSS in mg/L using the reported values in the DMRs in September 2017 and November 2020.

xii. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the average monthly percent removal of influent TSS using the reported values in the DMRs in November 2018, February 2019, March 2019, September 2019, November 2019, February 2020, March 2020, May 2020, August 2020, September 2020, November 2020, December 2020, February 2021, March 2021, April 2021, and May 2021.

xiii. Spangle is in violation of Conditions S3.A.7.a and S1.A of the Permit because it failed to correctly calculate the average monthly effluent ammonia in mg/L using the reported values in the DMRs in April 2018, June 2018, November 2018, April 2019, June 2019, March 2021, and May 2021.

E. Condition S3.E of the Permit requires that if Spangle monitors any pollutants more frequently than required by the Permit, then it must include the results of such monitoring in the calculation and reporting of the data submitted in the DMR. In the alternative, if Spangle's calculations in its DMRs discussed above in section III.D of this Notice of Intent to Sue are correct, then Spangle is in violation of this condition for failing to report the results of all monitoring data in its DMRs.

F. Condition S3.A.10.b of the Permit requires Spangle to submit the permit renewal application monitoring with the permit application by December 31, 2020. Spangle continues to violate this condition because it did not report these samples in its permit renewal application submitted on or about December 22, 2020, nor did it report these samples in its modified permit renewal application submitted on or about March 16, 2021.

G. Condition S3.C of the Permit requires Spangle to retain records of all monitoring information for a minimum of three years. Such information must include all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this Permit, and records of all data used to complete the application for this Permit. Spangle is in violation of this condition because it has failed to

retain records of such information, reports, and other documentation during the last three years.

H. Condition S3.F of the Permit requires Spangle to take the following actions when it violates or is unable to comply with any Permit condition: immediately take action to stop contain, and cleanup unauthorized discharges or otherwise stop the noncompliance and correct the problem; immediately report to Ecology and the Local Health Jurisdiction failures of the disinfection system, collection system overflows, plant bypasses resulting in a discharges, and any other failures of the sewage system; report occurrences of noncompliance by telephone to Ecology within 24 hours from the time Spangle becomes aware of the noncompliance; submit a written report within five days of the time Spangle becomes aware of the noncompliance; and report all permit violations which do not require immediate or within 24 hours reporting when it submits DMRs. Spangle is in violation of this condition because it has failed to take these actions each and every time that it violated or was unable to comply with any Permit condition.

I. Condition S3.I of the Permit requires that Spangle verify operator certification for operators in responsible charge and submit an electronic copy of an operator certification renewal card by May 15th each year. Spangle is in violation of this condition because it failed to submit the operator certification renewal card by the May 15th deadline in 2020 and 2021.

IV. FACILITY LOADING VIOLATIONS

A. Condition S4.A of the Permit requires Spangle to not exceed a TSS influent loading for maximum month of 103 lbs/day. Spangle is in violation of this condition:

<u>Month of Violation</u>	<u>TSS Influent Loading for Maximum Month (lbs/day)</u>
February 2017	122
March 2017	192
April 2017	255
March 2018	297.1

B. Condition S4.A of the Permit requires Spangle to not exceed a maximum month design flow of 85,000 gallons per day. Spangle is in violation of this condition:

<u>Month of Violation</u>	<u>Maximum Month Design Flow (gallons per day)</u>
September 2020	99,000

C. Condition S4.B.a of the Permit requires Spangle to submit a plan and schedule for continuing to maintain capacity to Ecology when the actual flow or waste load reaches 85 percent of any one of the design criteria mentioned above in sections IV.A and B of this Notice of Intent to Sue for three consecutive months or when the project plant flow or loading would reach design capacity within five years. Condition S4.B.b of the Permit requires the plan and schedule to identify the actions necessary to maintain adequate capacity for the expected population growth and to meet the limits and requirements of the permit. Condition

S4.B.a [*sic*]² of the Permit requires Spangle to continue long-term facility planning; submit engineering documents; and provide a written status update on facility planning and design efforts with DMRs that actual flow or waste load reaches 85 percent of any one of the design criteria in S4.A for three consecutive months or actual flow or waste load exceeds 100 percent of any design criteria in the reporting month. Condition S4.B.b [*sic*]³ of the Permit requires the planning update to describe the progress made towards completing engineering documents, including completed planning milestones and upcoming tasks. Spangle is in violation of this condition because it did not submit the required plans and schedule for continuing to maintain capacity after exceeding the waste load for TSS influent loading in February 2017, March 2017, and April 2017.

D. Condition S4.C of the Permit requires Spangle to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment. Spangle is in violation of this condition because it has failed to take all reasonable steps to minimize or prevent discharge in violation of this Permit, as evidenced by the violations identified in this Notice of Intent to Sue and the April 17, 2018 Ecology inspection report:

- The HDPE-lined basin does not have a leak detection system;
- The aeration in the aeration basin is intermittent and does not completely mix the solids, which contributes to the formation of foam;
- The lack of consistent wasting and sludge age, which contributes to the formation of foam;
- The operator opens the valve and sends waste activated sludge to the old lagoon periodically without running settling tests or other testing;
- The aeration basin flows into the clarifier through an uncontrolled hole at the bottom of the concrete wall separating the aeration basin and the clarifier;
- The operator does not verify influent flow estimate with the effluent flow measured by the calibrated sonic flow meter;
- The system was installed without a digester for the waste activated sludge, which causes issues controlling the sludge age and managing solids;
- The operator is wasting solids into the old lagoon which is currently used to manage stormwater;
- The belt presses are designed to treat waste activated sludge solids that are 30,000 to 50,000 mg/L, not return activated sludge solids that are 8,000 to 10,000 mg/L;
- Spangle designed and installed an aerobic digester in 2017 without adequate air or proper placement of the solids removal pipe and a solids removal pump;
- There are no air flow controllers on the lines to provide air to the aeration basin and the aerated digester; and
- Spangle has not been collecting all the sample data required by the Permit and as a result, will not know what level of additional treatment or modification may be needed to meet the 2026 Temperature TMDL.

² This Permit condition is likely meant to be Condition S4.B.c Conditions triggering plan submittal (*see* page 17 of the Permit)

³ This Permit condition is likely meant to be Condition S4.B.d Plan and schedule content (*see* page 17 of the Permit)

E. Condition S4.E.1 of the Permit requires Spangle to conduct an infiltration and inflow evaluation. *See* U.S. EPA publication, I/I Analysis and Project Certification, available as Publication No. 97-03 at <http://www.ecy.wa.gov/programs/wq/permits/guidance.html>. Condition S4.E.1 of the Permit requires that Spangle submit a report summarizing the results of the infiltration and inflow evaluation by December 2, 2019. Spangle is in violation of Condition S4.E.1 of the Permit because it did not submit the report until July 15, 2020.

F. Condition S4.F of the Permit requires Spangle to conduct an annual assessment of its influent flow and waste load and submit a report to Ecology by March 15, 2017, and annually thereafter. Spangle is in violation of this condition because it failed to submit the annual assessment by the prescribed time in 2017, 2018, 2019, and 2020.

V. OPERATION AND MAINTENANCE VIOLATIONS

A. Condition S5 of the Permit requires Spangle to have proper operation and maintenance, which includes keeping a daily operation logbook, adequate laboratory controls, and appropriate quality assurance procedures. Spangle is in violation of this condition because it does not have a daily operation logbook and does not have proper laboratory controls, including thermometers inside the ISCO samplers, correct temperatures inside the sampler refrigerator, and sample timing as noted in the April 17, 2018 Ecology inspection report.

B. Condition S5.A of the Permit requires Spangle to have an operator certified for at least a Class II plant by the State of Washington that must be in responsible charge of the day-to-day operation of the wastewater treatment plant. An operator certified for at least a Class II plant must be in charge during all regularly scheduled shifts. Spangle is in violation of this condition because the April 17, 2018 Ecology inspection report documented that “[t]he Town Clerk sometimes completes the testing for the daily parameters when Clint is unable to work, unless the absence is on a Friday. The Clerk does not work on Friday. The Town Clerk is not a certified operator and does not have the technical skills to identify issues with treatment plant processes or to make operational decisions if something is amiss.” Spangle is also in violation of this condition because the current operator, Logan Billington, is not a certified operator and has been conducting the day-to-day operations at the facility, as indicated by the signature on all DMRs beginning in January 2020 and a letter to the City of Spangle and the City Mayor from Paul Sifford, which was submitted to Ecology on August 6, 2020.

C. Condition S5.F of the Permit prohibits a bypass, which is the intentional diversion of waste streams from any portion of a treatment facility, with some exceptions. Spangle is in violation of this condition because it had at least one bypass in the last five years that did not meet these exceptions, including the March 2017 bypass indicated by the April 17, 2018 Ecology inspection report.

D. Condition S5.G of the Permit requires Spangle to review the Operation and Maintenance Manual (“O&M Manual”) at least annually and confirm this review by electronic letter to ecology by March 15th of each year. Spangle is in violation of this condition because it failed to submit O&M Manuals by the prescribed time in 2020 and 2021.

VI. PRETREATMENT VIOLATIONS

Condition S6.E of the Permit requires that Spangle annually submit a list summarizing all existing and proposed significant industrial users (“SIUs”) and potential significant industrial users (“PSIUs”) and submit this list to Ecology by March 15th of each year. Spangle is in violation of this condition because it failed to submit its annual list of SIUs and PSIUs by the prescribed deadline in 2019, 2020, and 2021.

VII. COMPLIANCE SCHEDULE VIOLATIONS

Condition S9 of the Permit requires Spangle to submit accurate effluent temperature data starting on the effective date of this permit for development of an interim limit on the monthly DMRs each year with the annual Wasteload Assessment to Ecology. Spangle is in violation of this condition because it failed to provide Ecology with this information each year with the annual Wasteload Assessment for the last five years, as indicated by the April 17, 2018 Ecology inspection report.

VIII. REDUCED PRODUCTION FOR COMPLIANCE VIOLATIONS

Condition G8 of the Permit requires Spangle to control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided in order to maintain compliance. Spangle is in violation of this condition because it failed to control its discharges each and every time this occurred.

IX. CONCLUSION

The above-described violations reflect those indicated by the information currently available to Spokane Riverkeeper. These violations are ongoing. Spokane Riverkeeper intends to sue for all violations, including those yet to be uncovered and those committed after the date of this Notice of Intent to Sue.

Under Condition G17 of the Permit, Spangle is required to comply with all conditions of the Permit and any noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action. Section 309(d) of the CWA, 33 U.S.C. § 1319(d), each of the above-described violations subjects the violator to a penalty of up to \$56,460 per day for each violation. In addition to civil penalties, Spokane Riverkeeper will seek injunctive relief to prevent further violations under Sections 505(a) and (d) of the CWA, 33 U.S.C. § 1365(a) and (d), and such other relief as is permitted by law. Also, Section 505(d) of the CWA, 33 U.S.C. § 1365(d), permits prevailing parties to recover costs, including attorney’s fees.

Spokane Riverkeeper believes that this NOTICE OF INTENT TO SUE sufficiently states grounds for filing suit. We intend, at the close of the 60-day notice period, or shortly thereafter, to file a citizen suit against Spangle under Section 505(a) of the Clean Water Act for violations.

During the 60-day notice period, we would be willing to discuss effective remedies for the violations addressed in this letter and settlement terms. If you wish to pursue such discussions in the absence of litigation, we suggest that you initiate those discussions within 10 days of receiving this notice so that a meeting can be arranged and so that negotiations may be completed promptly. We do not intend to delay the filing of a complaint if discussions are continuing when the notice period ends.

Sincerely,

SMITH & LOWNEY, PLLC

By: s/ Richard A. Smith

Richard A. Smith

Savannah Rose

cc: Michael Regan, Administrator, U.S. EPA
Michelle Pirzadeh, Region 10 Administrator, U.S. EPA
Laura Watson, Director, Washington Department of Ecology